

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2175 of 1980

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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VIHAJI GOVINDJI COLI

Versus

DEPUTY COLLECTOR

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Appearance:

MR DF AMIN for Petitioner

MR VC DESAI for Respondent No. 1

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/03/97

ORAL JUDGMENT

The challenge is made by the petitioner, by this Special Civil Application, to the order of the Gujarat Revenue Tribunal at Ahmedabad, dated 14.2.79, passed in Revision Application No.TEN.B.A.772/78.

2. The petitioner filed an application under Section 70(b) of the Bombay Tenancy & Agricultural Lands Act, 1948, before the A.L.T. and Mamlatdar, Kankarej for

making an inquiry and declaring him as a tenant of the land in dispute. That application was accepted by the A.L.T. & Mamlatdar, under its order dated 19th June 1978 and it was held that the present petitioner is a tenant of the suit land. On appeal by respondent No.2, that order has been set aside by the Appellate Authority (Deputy Collector). Then the petitioner has taken up the matter before the Gujarat Revenue Tribunal and the same has been dismissed under the impugned order. Hence this Special Civil Application.

3. The learned counsel for the petitioner contended that the original document ('Lekh') produced by him in the proceedings in R.T.S. Appeal No.5 of 1973, but subsequently record of that case has been lost or misplaced, and as such, the petitioner could not produce the original document in these proceedings. I do not find any substance in this contention. Firstly, this contention has not been raised by the counsel for the petitioner before the Gujarat Revenue Tribunal. Secondly, the counsel for the petitioner has failed to point out any evidence on record showing that the original document ('Lekh') has been lost. From the judgment of the Tribunal, it comes out that the certified copy of that document was produced which shows that the original document was available. The certified copy of the document, when the original document was available, could not have been taken into evidence and rightly the same has not been taken into consideration. In absence of the original document, the Tribunal has rightly held that it has not been proved that such document has been executed. Moreover, there is a concurrent finding of facts of the authorities below that the petitioner has never cultivated the land in dispute. The learned counsel for the petitioner next contended that the evidence of the petitioner has been misread in holding that the land in dispute was ancestral property. Even if it is taken so, then too this Court will not interfere in the matter as the judgment of the Tribunal on the aforesaid two other grounds is sustainable. It is settled law that even if some ground given in support of the order is not correct, the order is maintainable on other grounds, if those are legally sustainable. I do not find any illegality in the order of the Gujarat Revenue Tribunal which calls for interference of this Court.

4. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court, stands vacated. No order as to costs.

